

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

In re:

Sebastiao C. Bedame

Debtor(s)

Chapter 13

Case No. 18-10844

**MEMORANDUM IN SUPPORT OF MOTION
FOR RELIEF FROM AUTOMATIC STAY
(REAL PROPERTY)**

Bank of America, N.A. (“Movant”) hereby moves this Court, pursuant to 11 U.S.C. § 362, for relief from the automatic stay with respect to certain real property of the Debtor having an address of 280 Weeden St, Pawtucket, RI 02860 (the “Property”), for all purposes allowed by the Note (defined below), the Mortgage (defined below), and applicable law, including but not limited to the right to foreclose. In further support of this Motion, Movant respectfully states:

1. A petition under Chapter 13 of the United States Bankruptcy Code was filed with respect to the Debtor on May 13, 2018.
2. A Chapter 13 Plan was confirmed on December 7, 2018.
3. The Debtor has executed and delivered or is otherwise obligated with respect to that certain promissory note in the original principal amount of \$76,000.00 (the “Note”). A copy of the Note is attached hereto as Exhibit A. Movant is an entity entitled to enforce the Note and Mortgage (defined below).
4. Pursuant to that certain Mortgage (the “Mortgage”), all obligations (collectively, the “Obligations”) of the Debtor under and with respect to the Note and the Mortgage are secured by the Property. A copy of the Mortgage is attached hereto as Exhibit B.
5. As of January 7, 2019, the outstanding amount of the Obligations less any partial

payments or suspense balance is \$107,401.43.

6. In addition to the other amounts due to Movant reflected in this Motion, as of the date hereof, in connection with seeking the relief requested in this Motion, Movant has also incurred \$1,031.00 in legal fees and costs. Movant reserves all rights to seek an award or allowance of such fees and costs in accordance with applicable loan documents and related agreements, the Bankruptcy Code and otherwise applicable law.

7. The date and amount of the last payment on the Property are December 19, 2018, and \$766.00, respectively.

8. The following chart sets forth the number and amount of postpetition payments due pursuant to the terms of the Note that have been missed by the Debtor as of January 7, 2019.

| Number of Missed Payments | From | To | Monthly Payment Amount | Total Missed Payments |
|---------------------------|-----------|------------|------------------------|-----------------------|
| 5 | 9/01/2018 | 01/01/2019 | \$749.29 | \$3,746.45 |
| Less partial payments: | | | (\$34.13) | |

Total: \$3,712.32

9. The estimated fair market value of the Property is \$120,600.00. The basis for such valuation is Debtor's Schedule A, a copy of which is attached here as Exhibit C.

10. Upon information and belief, the encumbrances on the Property listed in the Schedules or otherwise known, including but not limited to the encumbrances granted to Movant, listed in order of priority, are:

| Holder | Type | Amount |
|-----------------------|----------|-------------------------------|
| Bank of America, N.A. | Mortgage | \$107,401.43 as of 01/07/2019 |

Total: \$107,401.43

11. R.I. Local Bankr. Form R (“Relief from Stay Worksheet – Real Estate”) is attached hereto as Exhibit D.

12. Pursuant to 11 U.S.C. § 362(d)(1), cause exists for relief from the automatic stay for the following reasons:

(a) Postconfirmation payments required by the confirmed plan have not been made to Movant

WHEREFORE, Movant prays that this Court issue an Order terminating or modifying the stay and granting the following:

1. Relief from the stay for all purposes allowed by the Note, the Mortgage, and applicable law, including but not limited allowing Movant (and any successors or assigns) to proceed under applicable non-bankruptcy law to enforce its remedies to foreclose upon and obtain possession of the Property.

2. That the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

3. For such other relief as the Court deems proper.

Bank of America, N.A.
By its attorneys,

Date: January 11, 2019

/s/ Joseph Dolben, Esq.
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